

(3) Is likely to be a material witness in the proceeding.

d. A hearing officer shall withdraw from the case where the hearing officer's own impartiality might be affected as outlined in subrule 14.86(17) "c."

e. Parties to the proceeding may challenge the impartiality of the hearing officer, prior to an evidentiary hearing, by contacting the JTPA complaint officer. The party shall state orally or in writing the factual basis for the challenge.

**14.86(18) *Hearing officer's proposed decision.*** The hearing officer will issue a written proposed decision which shall:

a. Include a listing of the issues to be decided, a brief history of the case, specific findings of fact based on the record, reasoned conclusions of law, citations to relevant statutory and regulatory provisions;

b. Be based upon the evidence on which reasonably prudent persons rely and may be based upon this evidence even if it would be inadmissible in a nonadministrative proceeding; and

c. Include a notice that the proposed decision becomes the final agency decision without further proceedings unless there is an appeal to, or review on motion of, the director within ten days of the issuance date of the proposed decision.

**14.86(19) *Request for an independent state review.***

a. *Filing.* A request for an independent state review of a hearing officer's proposed decision shall be filed within 10 days of the issue date of the adverse decision or within 10 days of the date the decision should have been issued. The request shall be filed with the JTPA complaint officer.

b. *Contents.* A request for an independent state review shall include:

(1) The name, address, signature of the requesting party and date;

(2) The specific provisions of the proposed decision upon which a review is requested. Those provisions upon which a review is not requested will be considered resolved and not subject to further review. The agency reserves the right to review any provision of a proposed decision upon its own motion.

c. *Notice.* Upon receipt of a request for review, the JTPA complaint officer will provide written notice to the parties of the filing of the request for review and set a deadline for submitting any briefs the parties may wish to have considered.

**14.86(20) *Independent state review.*** Timely requests for an independent state review of the hearing officer's proposed decision may be accepted by the director.

a. The director, or an individual designated by the director, will review the proposed decision, the record, and all timely filed briefs.

b. The director may adopt, modify or reject the proposed decision of the hearing officer. If the director designates an individual to review the proposed decision, the designee will prepare a recommended decision which the director may adopt, modify or reject.

c. A final, written decision will be issued and forwarded to each party within 30 days of the filing date of the request for an independent state review. The written decision of the director is final. The decision of the director is final agency action and subject to judicial review as provided in Iowa Code section 17A.19.

d. If the state does not issue a written decision within 30 days of the notice of acceptance of a request for an independent state review, a party has the right to request from the Secretary of Labor a determination whether reasonable cause exists to believe that the Act or its regulations have been violated. This request shall follow the requirements of 20 CFR 629.52(d) as of March 15, 1983.

This rule is intended to implement Iowa Code chapters 7B, 17A, Iowa Code section 15.108(6), and 29 U.S.C. 1554.

**345—14.87(7A,7B, 29 U.S.C.1554) Transition provision and effective date.** Rules 14.53(7A,7B, 29 U.S.C.1554) and 14.86(7A,7B, 29 U.S.C.1554) shall govern all JTPA complaints filed with SDA grantees or the department of workforce development which have not been set for hearing on or before the July 1, 1986, effective date of these rules. If necessary, the department of workforce development

will allow complainants sufficient time to refile complaints, without prejudice, in accordance with the jurisdictional and procedural requirements of these rules.

This rule is intended to implement Iowa Code chapters 7B, 17A, Iowa Code section 15.108(6), and 29 U.S.C. 1554.

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## CHAPTER 15

### MENTOR ADVISORY BOARD

[Prior to 7/17/96, see Status of Women Division, 435—Chapter 6]

Transferred to 877—Chapter 13, IAB 3/12/97, effective 4/16/97.

\*Effective date (1/22/86) of rule 19.8 delayed 70 days by Administrative Rules Review Committee.

\*\*See IAB, Economic Development Department.